

AMENDED IN SENATE JUNE 1, 2010  
AMENDED IN SENATE APRIL 28, 2010  
AMENDED IN SENATE APRIL 14, 2010

**SENATE BILL**

**No. 1396**

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**Introduced by Senators Lowenthal and Romero**  
(Coauthors: Assembly Members Bonnie Lowenthal and Villines)

February 19, 2010

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An act to add and repeal Chapter 3 (commencing with Section 63060) of Part 35 of Division 4 of Title 2 of the Education Code, relating to education funding.

LEGISLATIVE COUNSEL'S DIGEST

SB 1396, as amended, Lowenthal. Education funding: maximum categorical education flexibility pilot program.

Existing law establishes various categorical education programs and appropriates the funding for those programs in the annual Budget Act. Existing law requires the Superintendent of Public Instruction, for the 2008–09 to 2012–13 fiscal years, inclusive, to apportion from the amount provided in the annual Budget Act for specified categorical education programs an amount based on the same relative proportion that the local educational agency received in the 2008–09 fiscal year for those programs and authorizes school districts, for those fiscal years, to use these funds, with specified exceptions, for any educational purpose, to the extent permitted by federal law. Existing law, for those fiscal years, deems local educational agencies that use these categorical education program funds for any educational purpose to be in compliance with the program and funding requirements of those categorical education programs.

Existing law, as a condition of receiving the categorical education program funds that may be used for any educational purpose, requires school districts and county offices of education, at a regularly scheduled, open, public hearing, to take testimony from the public, discuss, and approve or disapprove the proposed use of funding. Existing law requires a local educational agency to report expenditures, as specified, to indicate the activities for which these funds were expended and requires the department annually to collect and provide this information to the appropriate legislative policy and budget committees and the Department of Finance.

This bill would establish the 3-year Maximum Categorical Education Flexibility Pilot Program in which 3 school districts would be selected to participate. To be eligible for selection, a school district would be required to meet certain preconditions, including developing a plan or initiative to accelerate pupils' progress to proficiency that includes specified goals. A school district selected to participate would be required to agree to demonstrate significant progress toward accelerating pupils' progress toward proficiency on California's academic standards over the 3-year pilot project period, a narrowing of the achievement gap in its federally recognized subgroups, fiscal solvency, positive growth on the district API, improvement in its college entrance rate, and an increase in its graduation rate.

The bill would require the Superintendent to apportion to the participating school districts a categorical education block grant based on the funding those school districts received in the 2009–10 fiscal year for specified programs, including the Economic Impact Aid Program, the Class Size Reduction Program, Child Nutrition Programs, and Transportation Programs.

A participating school district would be allowed to use the block grant funds for any purpose related to improving pupil achievement and academic instruction and would be required to implement an open and transparent process that allows public input when discussing and deciding on the expenditure of categorical education block grant funds. A participating school district would be deemed to be in compliance with the program and funding requirements associated with the categorical education programs included in the block grant, except that a participating school district that receives funding for economic impact aid would be required to continue to designate staff to coordinate services and programs for English learners, including the home language

survey, and to continue in existence parent advisory committees and schoolsite councils.

A participating school district would be required to submit an evaluative annual report to the department, the state board, the Governor, and the Legislature and to submit to the department an annual expenditure report. ~~The Legislative Analyst's Office~~ *participating school districts* would be required to ~~prepare~~ *provide for an independent* interim evaluation report and a final *independent* evaluation report that identifies the success and failures of the pilot program and makes recommendations regarding improving the pilot program and whether the program should be continued.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) California school districts are facing immeasurable
- 4 challenges managing reductions in state funding and need
- 5 maximum flexibility in the ways they can utilize restricted funding
- 6 from the state.
- 7 (b) The pilot project enacted by this act would give three school
- 8 districts maximum flexibility by creating a new categorical program
- 9 block grant that would include all the funding for categorical
- 10 education programs received by the district and allow that funding
- 11 to be used for any purpose related to improving pupil achievement
- 12 and academic instruction.
- 13 (c) The pilot project will demonstrate to state policymakers that
- 14 state money for categorical education programs can be managed
- 15 more efficiently and effectively by school districts to meet the
- 16 academic needs of all pupils and result in progress in closing the
- 17 achievement gap.
- 18 (d) Maximum categorical program flexibility will enhance a
- 19 school district's ability to support academic and career goals for
- 20 all pupils and provide systematic, differentiated instruction and
- 21 interventions to accelerate pupils' progress to proficiency.
- 22 (e) The pilot program will allow the state to evaluate the benefits
- 23 of maximum categorical program flexibility and ensure that

1 flexibility, when used correctly, will result in gains in pupil  
2 achievement.

3 SEC. 2. Chapter 3 (commencing with Section 63060) is added  
4 to Part 35 of Division 4 of Title 2 of the Education Code, to read:

5  
6 CHAPTER 3. MAXIMUM CATEGORICAL EDUCATION FLEXIBILITY  
7 PILOT PROGRAM  
8

9 63060. The Maximum Categorical Education Flexibility Pilot  
10 Program is hereby established. The pilot project shall be  
11 implemented during the 2011–12, 2012–13, and 2013–14 fiscal  
12 years. The Superintendent may select three school districts to  
13 participate in the pilot project. *To the extent there are qualified*  
14 *applicants, the Superintendent shall select a geographically diverse*  
15 *group of school districts of varying size to participate in the pilot*  
16 *project.*

17 63061. (a) In order to be eligible to apply for selection, a  
18 school district shall meet the following preconditions:

19 (1) The school district has a plan or initiative, developed in  
20 conjunction with parents and teachers, to accelerate pupils' progress  
21 to proficiency. The plan shall include measurable metrics to  
22 improve pupil performance, close the achievement gap, increase  
23 college entrance rates, and increase career readiness.

24 (2) The governing board of the school district, at a regularly  
25 scheduled public meeting of the board, has approved the plan and  
26 developed corresponding policies in support of the plan.

27 (3) The annual evaluation of the performance of the  
28 superintendent of the school district is linked to the pupil  
29 performance goals specified in subdivision (a).

30 (4) The school district can demonstrate a pattern of stability  
31 between management and the bargaining units.

32 (5) There is community support for the plan.

33 (6) The school district has surveyed all parents and legal  
34 guardians in the district to gauge support for participation in the  
35 pilot program. At least one-half of the permanent teachers and  
36 one-half of the surveyed parents or legal guardians in the district  
37 support participation in the pilot program, and that support is  
38 demonstrated in writing.

39 (7) The standards-based curriculum for English learners is  
40 cognitively complex, coherent, well articulated, meaningful, and

1 will enable English learners to learn English quickly and fluently  
2 so that they may participate fully in the grade-level curriculum.

3 At a minimum, the program shall provide all of the following:

4 (A) Support for English learners who are new to the district.

5 (B) An English language development program that is  
6 comprehensive and standards aligned and that has all of the  
7 following characteristics:

8 (i) Actively develops all domains of language.

9 (ii) Addresses varying levels of English fluency.

10 (iii) Develops age-appropriate and context-appropriate language,  
11 including an emphasis on academic English.

12 (iv) Includes opportunities for English learners to interact with  
13 native English speaking peers.

14 (v) Creates a supportive learning environment for language  
15 learning.

16 (vi) Recognizes the role of primary language development.

17 (C) Full access to a challenging curriculum.

18 (D) High-quality instruction and materials.

19 (E) An inclusive and affirming school climate.

20 (F) Valid, comprehensive, and useful assessments.

21 (G) Strong family partnerships.

22 (H) A qualified educator workforce.

23 (b) At a minimum, the Superintendent shall consider the quality  
24 and rigor of the preconditions outlined in subdivision (a).

25 (c) Nothing in this section shall be construed as imposing new  
26 mandates on school districts.

27 63062. A school district selected to participate in the pilot  
28 project shall agree to demonstrate all of the following:

29 (a) Significant progress toward accelerating pupils' progress  
30 toward proficiency on California's academic standards over a  
31 three-year period, as measured by the annual assessments  
32 administered pursuant to Article 4 (commencing with Section  
33 60640) of Chapter 5 of Part 33 and any other local, state, or  
34 national assessments.

35 (b) A narrowing of the achievement gap in the district's federally  
36 recognized subgroups, as measured by the annual assessments  
37 administered pursuant to Article 4 (commencing with Section  
38 60640) of Chapter 5 of Part 33 and any other local, state, or  
39 national assessments.

1 (c) Fiscal solvency, as measured by the standards and criteria  
2 adopted by the state board pursuant to Section 33127 and  
3 implementing regulations.

4 (d) Positive growth, as measured by the district's Academic  
5 Performance Index score, the annual assessments administered  
6 pursuant to Article 4 (commencing with Section 60640) of Chapter  
7 5 of Part 33, and any other local, state, or national assessments.

8 (e) An increase in the district's graduation rate, as measured by  
9 the California Longitudinal Pupil Achievement Data System and  
10 the school district level data system.

11 (f) Improvement in the district's college entrance rate, as  
12 measured by the National Student Clearinghouse or other  
13 state-approved pupil data tracking system.

14 (g) The number of pupils who enter technical school after  
15 graduation, as measured by the National Student Clearinghouse  
16 or other state-approved pupil data tracking system, *or who graduate*  
17 *prepared to enter high-wage, high-skill occupations.*

18 63063. The Superintendent shall apportion to the school  
19 districts selected for participation in the pilot project a categorical  
20 education block grant that is based on the funding those school  
21 districts received in the 2009–10 fiscal year for the budget items  
22 listed in paragraph (2) of subdivision (a) of Section 42605 and  
23 Items 6110-111-0001, 6110-119-0001, 6110-128-0001,  
24 6110-130-0001, 6110-158-0001, 6110-166-0001, 6110-196-0001,  
25 6110-201-0001, 6110-202-0001, 6110-203-0001, 6110-224-0001,  
26 and 6110-234-0001 of Section 2.00 of the annual Budget Act.

27 63064. (a) Notwithstanding any other law, a participating  
28 school district may use the categorical education block grant funds  
29 that it receives pursuant to Section 63063 for any purpose related  
30 to improving pupil achievement and academic instruction, except  
31 as provided in subdivision (b).

32 (b) With respect to funds received pursuant to Item  
33 6110-128-0001 of Section 2.00 of the annual Budget Act, a  
34 participating school district shall use these funds to supplement  
35 the base program provided to English learners and economically  
36 disadvantaged pupils, as those terms are defined in Section 54026.

37 (c) It is not the intent of the Legislature to waive requirements  
38 of any educational programs enacted through the initiative process.

39 (d) A participating school district shall implement an open and  
40 transparent process that allows public input at a regularly scheduled

1 meeting of the governing board when discussing and deciding on  
2 the expenditure of categorical education block grant funds.

3 63065. (a) Notwithstanding any other law, for the 2011–12,  
4 2012–13, and 2013–14 fiscal years, a participating school district  
5 shall be deemed to be in compliance with the program and funding  
6 requirements contained in statutory, regulatory, and provisional  
7 language associated with the items listed in Section 63063 and  
8 paragraph (2) of subdivision (a) of Section 42605.

9 (b) Notwithstanding subdivision (a), a participating school  
10 district that receives funds pursuant to Item 6110-128-0001 of  
11 Section 2.00 of the annual Budget Act shall continue to designate  
12 staff to coordinate services and programs, including the home  
13 language survey, for English learners and shall continue in  
14 existence parent advisory committees and schoolsite councils, as  
15 required pursuant to Section 62002.5.

16 63066. (a) A participating school district shall submit an  
17 evaluative annual report to the department, the state board, the  
18 Governor, and the Legislature that details the progress made during  
19 the immediately prior school year towards the goals set forth in  
20 Section 63061, including details of the academic progress made  
21 by pupil subgroups.

22 (b) A participating school district also shall submit to the  
23 department an annual expenditure report, detailing the expenditure  
24 of specific categorical program funds and the purposes for which  
25 those funds were expended. *To the extent feasible, the report shall*  
26 *identify the weighting of per pupil expenditures from all funds*  
27 *spent on low socioeconomic, limited-English proficient, and special*  
28 *education pupils, as compared to other pupils in the school district.*

29 ~~(e) (1) The Legislative Analyst's Office shall prepare~~

30 *(c) The participating school districts shall provide for the*  
31 *following independent evaluation reports:*

32 ~~(A)~~

33 *(1) An interim report no later than 18 months after the*  
34 *Superintendent apportions funding pursuant to Section 63063.*

35 ~~(B)~~

36 *(2) A final evaluation report that identifies the success and*  
37 *failures of the pilot program and makes recommendations regarding*  
38 *improving the pilot program and whether the program should be*  
39 *continued.*

1     ~~(2) The school districts participating in the pilot program shall~~  
2     ~~provide the Legislative Analyst's Office with any information that~~  
3     ~~office deems necessary to meaningfully evaluate the pilot program.~~  
4     64067. This chapter shall become inoperative on July 1, 2014,  
5     and, as of January 1, 2015, is repealed, unless a later enacted  
6     statute, that becomes operative on or before January 1, 2015,  
7     deletes or extends the dates on which it becomes inoperative and  
8     is repealed.